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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

REGINALD TURNER,

Defendant and Appellant.

B215705

(Los Angeles County
Super. Ct. No. SA036469)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Richard A. Stone, Judge. Dismissed.

Jennifer Peabody, under appointment by the Court of Appeal, for
Defendant and Appellant.

No appearance for Plaintiff and Respondent.

On September 28, 2000, Reginald Turner was charged by amended information with grand theft of personal property valued in excess of \$400 (Pen. Code, § 487, subd. (a)). The information specially alleged Turner had suffered two prior serious or violent felony convictions within the meaning of the “Three Strikes” law (Pen. Code, §§ 667, subds. (b)-(i), 1170.12, subds. (a)-(d)) and had previously served four separate terms for felonies. (Pen. Code, § 667.5, subd. (b).)

Appearing with private counsel on September 29, 2000, Turner agreed to enter an open plea to the court, in which he would plead no contest to the grand theft charge and admit all special allegations. Additionally, Turner understood and agreed that if he paid the nearly \$70,000 in victim restitution by his December 8, 2000 sentencing hearing, then he would be sentenced to no more than 32 months in state prison.¹ However, if Turner failed to pay the total amount of victim restitution, or committed a new offense, the maximum sentence he could receive would be 25 years to life.

At the time Turner entered his plea, he was advised of his constitutional rights and the nature and consequences of his plea. Turner stated he understood and waived his constitutional rights, acknowledged he understood the consequences of his plea and admissions and accepted the terms of the negotiated agreement.

Defense counsel joined in the waivers of Turner’s constitutional rights and concurred in the plea and admissions. Defense counsel stipulated to, and the court found, a factual basis for the plea.

On August 25, 2005, Turner appeared in the trial court after failing to pay the full amount of victim restitution, failing to appear as ordered, and receiving a new criminal filing (L.A.S.C. case No. LA037660). Nonetheless, the trial court decided to dismiss one of Turner’s prior strike convictions, as nonviolent (Pen. Code, § 288a, subd. (c)) and remote (1991), as well as all but one of his prior prison term enhancements, in furtherance of justice. The trial court sentenced Turner to an aggregate state prison term

¹ Turner apparently represented to the trial court, through defense counsel, that he could make restitution to the victims within six weeks of his plea hearing.

of seven years, consisting of the three-year upper term for grand theft of personal property, doubled under the Three Strike's law, plus one-year for the remaining prior prison term enhancement.² Turner was ordered to pay a \$1,000 restitution fine, and a parole revocation fine, which was suspended pursuant to Penal Code section 1202.45.³

Alternating between the superior court and this court, Turner filed a series of petitions for writ of habeas corpus in 2007, all of which primarily argued the trial court's imposition of an upper term sentence following his conviction for grand theft of personal property violated his right to a jury trial guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution as articulated in *Blakely v. Washington* (2004) 542 U.S. 296 [124 S.Ct. 2531, 159 L.Ed.2d 403] and *Cunningham v. California* (2007) 549 U.S. 270 [127 S.Ct. 856, 166 L.Ed.2d 856]).⁴ All of his petitions were summarily denied. Turner then sought habeas relief on the same ground in the California Supreme Court, which he was also denied on March 19, 2008. Most recently, on March 10, 2009, Turner again filed his petition for writ habeas corpus in superior court, which was again denied on March 30, 2009 on several grounds.

On April 13, 2009, Turner filed a notice of appeal from the superior court's March 30, 2009 order denying his habeas petition.

We appointed counsel to represent Turner on appeal. After an examination of the record, counsel filed an opening brief" in which no issues were raised. On August 19, 2009, we advised Turner he had 30 days within which to personally submit any contentions or issues he wished us to consider. We construe Turner's typed

² The trial court also sentenced Turner to three years four months in LASC case No. LA037660, to be served consecutively to the sentence imposed in this case.

³ The trial court advised counsel that if they could not agree on Turner's presentence credits then it would determine the credits at a later date. The amount of presentence credits is not provided in the record on appeal.

⁴ His petitions filed in superior court for habeas relief were summarily denied on May 23, 2007 and August 6, 2007. He was similarly denied habeas relief by this court on July 5, 2007 and September 4, 2007

“DECLARATION,” “GROUND FOR RELIEF” and “UNDERLYING FACTS WITH POINTS AND AUTHORITIES” appended to his notice of appeal as his supplemental brief.

We have examined the entire record and are satisfied Turner’s attorney has fully complied with the responsibilities of counsel and no arguable issues exist. (*Smith v. Robbins* (2000) 528 U.S. 259, 277-284 [120 S.Ct. 746, 145 L.Ed.2d 756]; *People v. Kelly* (2006) 40 Cal.4th 106, 112-113; *People v. Wende* (1979) 25 Cal.3d 436, 441.)

The March 30, 2009 order is nonappealable. (*In re Clark* (1993) 5 Cal.4th 750, 767, fn. 7; *In re Hochberg* (1970) 2 Cal.3d 870, 876, disapproved on other grounds in *In re Fields* (1990) 51 Cal.3d 1063, 1070, fn. 3.) “Because no appeal lies from the denial of a petition for writ of habeas corpus, a prisoner whose petition has been denied by the superior court can obtain review of his claims only by the filing of a new petition in the Court of Appeal.” (See *In re Clark, supra*, 5 Cal.4th at p. 767, fn. 7.)

DISPOSITION

The appeal is dismissed.

WOODS, Acting P. J.

We concur:

ZELON, J.

JACKSON, J.